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SUBJECT: NIGERIA'S EFCC ) THE TEMPLE OF JANUS

Classified By: AMBASSADOR JOHN CAMPBELL FOR REASON 1.4 a, b, and d

1. (SBU) Summary: Despite initial skepticism due to little action at its inception with the Economic and Financial Crimes Commission (EFCC) Act of 2002, under the leadership of Assistant Police Commissioner Nuhu Ribadu, the EFCC established itself as a potent actor in President Obasanjo's war on corruption. The commission has acted heavy-handedly, however, often without regard for Nigeria's laws or civil rights protections. The EFCC increasingly has been criticized for "selective prosecution" and has been accused of serving the political interests of the president by focusing on his opponents. Vice President Atiku abubakar,s supporters regularly make that accusation in the context of his feud with the President. In the last year, the EFCC has taken a more direct role in Nigeria's political life. Ribadu has challenged virtually all of Nigeria's politicians and warned governors the commission would examine their finances when they left office. He claimed authority to vet all candidates for the 2007 elections, supported by the far from independent Independent National Electoral Commission (INEC). Ribadu announced the EFCC soon would release the names of those who would be investigated by the commission. Thus far, however, the EFCC has focused on obvious opponents of President Obasanjo, mostly those who opposed amending the constitution to permit a third term for the president. Recently, Mohammed Babangida, son of former head of state and possible presidential contender, General Ibrahim Babangida, was arrested on Aug 11 and held without charge for at least 24 hours beyond the 48 hours allowed by law. Like Rome's two-faced Janus, Ribadu sees himself as Nigeria's God of Doors, Gates, Beginnings and Endings through which all Nigerians must pass. End Summary.

2.(SBU) When the EFCC was established in 2002, there was considerable skepticism that this was yet another empty gesture and in its early days the EFCC did little. Chairman Nuhu Ribadu, however, moved quickly to ensure the EFCC made its mark as a major law enforcement agency and force to be reckoned with and Nigerians and the international community hailed the development as a major step in Nigeria's war on corruption and financial crimes. Under the Office of the President, the EFCC benefited from considerable government largesse. Freed from bureaucratic restraints, the EFCC got the resources to fight the fraud and money laundering that contributed to corruption and lawlessness in Nigeria. The Nigerian Police Force (NPF) and Nigerian Drug Law Enforcement Agency (NDLEA) were forced to send their best and brightest officers on detail to the EFCC. Offices were acquired in Abuja and Lagos and furniture, computers and cars flowed in. The Special Fraud Unit in the NPF was forced to turn over its major cases to the EFCC.

3.(SBU) In time, the EFCC chalked up some significant

successes. In September 2005, Ribadu announced the Swiss government would return to Nigeria \$290M stolen by former Head of State Sani Abacha. He claimed the EFCC had recovered over \$700M from advanced fee (419) fraudsters and others. In January 2006, Ribadu claimed the Commission had recovered some "500 billion Naira in cash and property from corrupt public officials and others," probably referring to the same recoveries. He said the EFCC had convicted 35 persons. At that time, the only major government figure prosecuted as a result of EFCC action was former Inspector General of Police, Tafa Balogun and he, despite having taken almost 18 billion Naira, reportedly had negotiated a six month jail sentence. According to a November 2005 EFCC press release, Balogun pleaded guilty to 8 of 56 charges and was ordered to pay back 4 million Naira. An old Obasanjo crony, with 67 days time served, he spent less than 4 more months in prison. Two months of that was in a hospital for illness.

14. (C) A second EFCC investigation resulted in the arrest of Bayelsa governor Alamesiya. In the run up to the arrest, President Obasanjo and the governor reportedly had a heated discussion in which the President tried to draft the governor's support for a third term or at the very least end the governor's alliance with Vice President Atiku. Obasanjo reportedly warned the governor he would pursue a criminal case against him if he did not join leagues with the President. Shortly thereafter he was arrested in London after Ribadu had visited London and learned of the governor's plans to travel there. Subsequently, the governor fled back to Nigeria while on bail; was removed from office; and rearrested in Nigeria. To remove him from office, the EFCC illegally detained Bayelsa State Assembly members, and threatened to open investigations against them if they did not impeach the governor. A similar scenario is now being played out against the governor of Plateau state.

15. (SBU) At some point between 2002 and 2005, the EFCC expanded its role into areas not specified in the 2002 act. And, contrary to the act, the EFCC has become the exclusive fiefdom of its Chairman. The EFCC act names two full time members to the board ) the chairman and a director general, and several other members: the Governor of the Central Bank or his representative, a representative not below the rank of a Director from the Federal Ministries of Foreign Affairs, Finance and Justice; the Chairman of the NDLEA; the Director Generals of the National Intelligence Agency and the Department of State Security Services; the Director General Securities and Exchange Commission; the Commissioner for Insurance; the Postmaster General of the Nigerian Postal Services; the Chairman, Nigerian Communications Commission; the Comptroller-General, Nigeria Customs Services; the Comptroller-General, Nigerian Immigration Services; a representative of the NPF not below the rank of an Assistant IG of Police and four eminent Nigerians with experience in finance, banking or accounting. All of the above, including the Chairman and Director General, are subject to senate confirmation. Ostensibly there is a director general managing administration but there is no evidence that any other officials are involved in the management or supervision of the EFCC. There is no evidence that anyone but Ribadu (and ostensibly the president) decides who the EFCC will investigate.

16. (C) As a law enforcement agency combating financial crime, the EFCC is better and more effective than other Nigerian law enforcement agencies. The Financial Intelligence Unit, which is quasi-independent appears to be doing a reasonable job. Nonetheless, the EFCC is still afflicted with many of the same maladies as other Nigerian institutions, including corruption. As with other agencies, it is often used by the elite to resolve what should be purely private, civil matters. While the EFCC may be as good as it gets in Nigeria, it is worth remembering that Ribadu came from the Nigerian police and is not without blemish. EFCC agents, much like police officers, reportedly hire themselves out to local businesspeople to arrest or threaten those who owe money or are involved in contract disputes.

17. (C) Perhaps most problematic, however, is Ribadu's

involvement in politics. Beginning with the persecution of third term opponents, the media and public now widely perceive the EFCC as a hatchet for the Villa. Ribadu has challenged virtually all of Nigeria's politicians and warned governors the commission would examine their finances when they left office. He claimed authority to vet all candidates for the 2007 elections, supported by the far from independent Independent National Electoral Commission (INEC). Ribadu announced the EFCC soon would release the names of those who would be investigated by the commission. Though the President's political opponents often are targets of investigations, those in his favor face no such scrutiny, or appear to be able to get nascent investigations quashed. Hardly a day goes by that one or another of Nigeria's dailies does not pillory the selective nature of EFCC's attention. Nearly all the anti-Obasanjo southern governors within the ruling party have been subjects of EFCC investigations and have had members of their staff arrested. This has not happened to the governors that support Obasanjo. Although it is an open secret that bribes changed hands during the third term debate, the EFCC appears uninterested in investigating that matter. In fact, Ribadu said that even with the eyewitness reports of money changing hands in the bank along with license plate numbers and description, he needed "more evidence" from the public before he could investigate.

18. (SBU) The August 11 arrest of Mohammed Babangida, son of former head of state and possible presidential contender, General Ibrahim Babangida, was another move in the political chess game. Further, he was held without charge at least 24 hours longer than the 48 hours allowed under the Nigerian constitution. The Nigerian Bar Association has chastised the EFCC for not obeying court orders to release people held in detention without charge. We know that Vincent Ossai of the NDLEA, suspected of facilitating drug trafficking was held for a month without charge.

19. (SBU) There is legislation pending in the national assembly that would give the EFCC even greater powers, including the right to search without a warrant. We note that the current EFCC budget provides for almost as much for arms and ammunition as it does for vehicles. We also understand that there are plans to provide EFCC officers side arms in the near future. While the EFCC does have arrest authority and a need for arms and ammunition, these developments would seem to go beyond the remit to deal with financial crimes.

110. (C) Comment: With its disregard for the procedural niceties, the EFCC is in danger of corrupting the rule of law and civil liberties in its fight against financial corruption. While those in EFCC's sights may be all too guilty, it is becoming increasingly apparent that selective prosecution by EFCC may become an ever more potent (and draconian) tool for President Obasanjo or his successor. Vice President Atiku Abubakar's supporters regularly make that accusation in the context of his feud with the President. Meanwhile Ribadu may have his own agenda, including boosting the prospects of close crony Federal Capital Territory Minister El Rufai. El Rufai apparently believes that if enough other contenders are disqualified then he can be the next President and Ribadu appears willing to help. Having been appointed in early 2003, according to the EFCC Act, Ribadu's four year term is over in early 2007 ) before the election. He, and other board members, may be appointed for another four years, but no more. While he will most likely remain Nigeria's God of Doors, Gates, Beginnings and Endings, it will be interesting to see for how long.

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